

[18th May 1954]

* DR. V. K. JOHN :—“ Sir, from the statement that the Modified Scheme of Elementary Education is only suspended, am I to understand that it is not dropped? ”

* THE HON. SRI C. SUBRAMANIAM :—“ Sir, ‘ Suspend ’ in the sense that some of its features may be adopted by the expert committee, and we may accept them. In that sense I said ‘ suspended ’. I also said that immediately the other scheme was coming into effect.”

* DR. V. K. JOHN :—“ Sir, how much is this new expert committee going to cost us? We had a committee before. That committee cost us something.”

* THE HON. SRI C. SUBRAMANIAM :—“ The other committee cost us Rs. 2,500. I do not know how much this committee would cost us. I have not yet thought about it.”

III.—MESSAGE FROM THE ASSEMBLY.

MR. CHAIRMAN :—“ I have to announce to the House that I have received the following Message, dated the 18th May 1954, from the Hon. the Speaker, Madras Legislative Assembly :—

** The Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1954 (L.A. Bill No. 27 of 1954).*

In accordance with rule 116 of the Madras Assembly Rules, I transmit a copy of the motion passed today by the Madras Legislative Assembly, desiring to obtain the concurrence of the Council in setting up a Joint Select Committee of the two Houses to consider the Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1954 (L.A. Bill No. 27 of 1954).

That the concurrence of the Legislative Council be obtained for setting up a Joint Select Committee of both the Houses consisting of 23 members (15 members of the Assembly and 8 members of the Council) to consider the Madras Hindu Religious and Charitable Endowments (Amendment) Bill, 1954, and that the following members of this House be selected to serve on such a Joint Select Committee. (List of names to be furnished after the concurrence of the Council obtained) ”.

IV.—GOVERNMENT BILLS.

(1) THE MADRAS ELECTRICITY UNDERTAKINGS (ACQUISITION) BILL, 1954 (L.A. BILL NO. 23 OF 1954)—*cont.*

MR. CHAIRMAN :—“ We will now take up the clause by clause consideration of the Bill. There are no amendments to clauses 2 to 6. I shall now put them to the vote of the House.”

Clauses 2 to 6 were put and carried.

Clause 7.

MR. CHAIRMAN :—“ The motion is—

‘ That clause 7 do stand part of the Bill.’ ”

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* SRI V. GURUNANDAN ROW :—“ Sir, I move the amendment standing in my name, namely,—

‘ In sub-clause (1), delete the words and figures beginning with “ every licensee ” and ending with “ commencement of this Act ” and substitute the following :—

“ Every licensee shall within three months of the receipt of an order under section 4, sub-section (1), intimating the vesting date or in the case of an undertaking taken over and where the licensee has not appointed an individual as his sole and accredited representative before the commencement of this Act, within three months of the commencement of this Act.” ’

Sir, I think I should explain how this clause 7 will work in actual practice. First of all when the Government decide to take over an undertaking, they have to issue a notice under clause 4. Within three months of the receipt of this order, the licensee has to appoint an accredited representative to deal with all matters relating to the taking over of the undertaking by the Government. He will have to deal with the question of compensation payable under Basis A, or Basis B, or Basis C. The High Court has stated expressly that the Act as it stands did not allow a local authority to appoint an accredited representative, and therefore the Act was bad. The local authorities also should be allowed to appoint an accredited representative. Again it was held that where an accredited representative was not appointed by the licensee, the Government had the power to appoint their own accredited representative to the undertaking. This was declared bad by the High Court. These are the only two points that have been declared by the High Court to be bad. This Bill now seeks to rectify those defects, and allow the local authorities to appoint accredited representatives, because, the Act originally did not provide for it. To appoint an accredited representative within three months of the commencement of the Act, is no doubt correct. But I say that, as the clause stands at present, it means that even where a licensee has already appointed an accredited representative, he has now a right to appoint another representative, if such a course will be profitable to him. It is to avoid that difficulty I have moved my amendment. It is only to help the Government that I have moved my amendment. No licensee must take advantage of the word ‘ may ’ occurring in the sentence ‘ Every licensee may . . . ’ The clause reads as follows :—

‘ Every licensee may, within three months of the receipt of an order under section 4, sub-section (1), intimating the vesting date or, in the case of an undertaking taken over, within three months of the commencement of this Act, appoint an individual . . . ’

This will mean that even where a licensee has already appointed an accredited representative, he may appoint another and also claim compensation under Basis A, or Basis B, or Basis C, whichever is more profitable to him. The intention of the Government, I believe, is to prevent all licensees, who have already appointed

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accredited representatives, from appointing any more accredited representatives. They should not be given this opportunity to appoint any more. Therefore it is I have moved my amendment.

“ This is what my amendment says—

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‘ Every licensee shall within three months of the receipt of an order under section 4, sub-section (1) intimating the vesting date or in the case of an undertaking taken over and where the licensee has not appointed an individual as his sole and accredited representative before the commencement of this Act within three months of the commencement of this Act.’

“ This will mean that the right to appoint an accredited representative is restricted to such of those undertakings that have not appointed an accredited representative. Once they have appointed an accredited representative before the commencement of this Act, they shall not have the power to reappoint an accredited representative. I think, as the Bill stands now, it leaves room for the construction that the licensee has got a right to reappoint.”

The amendment was duly seconded.

MR. CHAIRMAN :—“ Amendment moved—

‘ In sub-clause (1), *delete* the words and figures beginning with ‘ Every licensee ’ and ending with ‘ commencement of this Act, and *substitute* the following :—

“ Every licensee shall within three months of the receipt of an order under section 4, sub-section (1), intimating the vesting date or in the case of an undertaking taken over and where the licensee has not appointed an individual as his sole and accredited representative before the commencement of this Act, within three months of the commencement of this Act.” ’

* THE HON. SRI C. SUBRAMANIAM :—“ Mr. Chairman, Sir, I think the hon. Member Sri Gurunandan Row is arguing mainly under the impression that the sub-clause which gives the power to the Government to appoint an accredited representative on the failure of the undertaking concerned to appoint one, alone has been held invalid by the Supreme Court. The Supreme Court has held the whole Act void because it is *ultra vires* of the powers of the legislature. Therefore the original Act became an invalid Act and any action taken under that Act cannot be justified. That is why in this Bill we have provided for a saving Clause, namely, Clause 20. Whether an accredited representative is appointed or not, it is open for anybody to go before a court and argue that the Act has been declared void and therefore any action taken under that Act was void and invalid and no notice should be taken of the old Act. Considering the present circumstances, I would like the hon. Member to say what should be the form of the clause. If only that sub-clause alone has been held invalid, then we can have all the other things. But unfortunately the whole Act has been held to be void because the legislature had

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no power to pass such a legislation. As a matter of fact, the acquisitions made already, and all actions already taken under the old Act, can only become valid under the power given to the Government under this enactment and not under the old enactment.

"Then, the hon. Member asked 'why put in the word "may", and why not put in the word "shall"'. Suppose the Government adopt that word 'shall', then it becomes necessary for the Government to make it mandatory on the part of the undertaking to appoint an accredited representative. If the undertaking does not do it what is the consequence? Government cannot compel any undertaking to appoint an accredited representative so that he may deal with the Government. Therefore option has to be given to the concern to appoint an accredited representative, and we cannot take notice of anything that happened under the provisions of the Act held invalid. That is why we have adopted the word 'may' and not the word 'shall', because on the failure of the concern to comply with it, we cannot take action. Even though the Supreme Court did not deal with this sub-clause, the High Court declared this as void. Under these circumstances we wanted to steer clear of the difficulties. Therefore it is that we have dropped the sub-clause, and we are only giving the option to have an accredited representative. If there is no representative the firm as such will have to deal with us and that firm will have to be dealt with in a particular way. Under these circumstances, the insertion of the word 'shall' will create further difficulties, and the concerned parties will go again to the court and say that the Government cannot compel them to appoint an accredited representative. In order to avoid these difficulties, we have put in the word 'may'. If they choose to appoint a representative, then the negotiations will be made easy."

* SRI B. V. SUBRAHMANYAM:—“Mr. Chairman, Sir, possibly the doubt which I am raising is a little before its time; but after hearing the hon. Member, Sri Gurunandan Row, and the Hon. Minister for Finance, it seems to me that, if the explanation offered by the Hon. Minister is right, as I think, it is, Clauses 24 and 25 are a little misleading, because Clause 25 wants to repeal an Act which is *ex-facie* invalid, and the explanation of the Hon. Minister bases itself on an invalid Act, and Clause 24 tries to validate certain actions taken by either the undertakings taken over by the Government or by the Government after taking over the undertakings. This leads to certain anomalies and possibly the doubts of the hon. Member, Sri Gurunandan Row, are based upon some of the Clauses which seem to waver between the proposed Act and the invalid Act of 1949. Why repeal an Act when it is not valid at all? And how can that validity come into force with respect to acts that took place before the Constitution of India of 1950 came into force? All sorts of complications will arise under the Clause, which validates previous actions

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taken, unless there is some clarification, made with respect to the actions taken by the accredited representatives who have been there so far and with respect to the actions to be taken by the accredited representatives to come in hereafter. Therefore, I would like some clarification on clauses 24 and 25 because they seem to lead to some confusion which reflects itself in the amendment which the hon. Member has brought before the House."

* SRI V. GURUNANDAN ROW :—" Mr. Chairman, Sir, there is another factor. I would request the Hon. Minister to read sub-clause 4 of Clause 8. It says : ' Where, in respect of an undertaking taken over, the accredited representative has intimated to the Government which basis of compensation, A, B or C, should be adopted in respect of the undertaking, such intimation shall be deemed to have been made under this section and is hereby declared not open to revision except with the concurrence of the Government '. That means that Government are in fact making the accredited representative previously appointed as final. You cannot take him away and appoint another in his place. What is the necessity to appoint another? Then it would be a contradiction and this clause will be inconsistent with the provisions in clause 7. Then the Government will have to bring in another Bill to validate everything. It is now too late in the day for the Hon. Minister to say that the Supreme Court has held the whole Act to be void and therefore such a provision is necessary. Either the Government must validate the appointment of the accredited representative or not validate anything at all."

* THE HON. SRI C. SUBRAMANIAM :—" Mr. Chairman, Sir, with reference to the point made by the hon. Member Sri Subrahmanyam with regard to the necessity for clauses 24 and 25, as a lawyer he should know that there cannot be a judicial pronouncement in respect of every case and each case decides only the particular dispute involved in it. So the Legislature says that it is repealed and it is not applicable to any other case. With reference to actions we have already taken in pursuance of that Act, to that extent we have got power to validate it and we have only done that. That is only a question of validating past actions already taken and it has all along been recognized that the legislature has got the power to validate certain actions which have already been taken even though there was no authority for taking those actions. Under clause 24, only to the extent necessary we have validated actions already taken. We need not go beyond that. That is why in respect of a case where an accredited representative has already been appointed we are saying that it would be deemed as a transaction which has been entered into under this Act. We are entitled to do it and we have the power to do it. Therefore the word ' may ' alone should be there. (Interruption.) If the hon. Member is satisfied with that, it is all right. The date on which the Act is deemed to come into force

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is a date subsequent to the introduction of the Constitution of India, namely, the 26th January 1950. Therefore all the actions taken subsequent to that date are held valid."

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHU- 3 p.m.
PATHI:—" Mr. Chairman, Sir, in view of what my Hon. Colleague the Minister for Finance has explained, I accept that the amendment is unnecessary as it would complicate matters. This is the opinion given by the Law Department of the Government also. I therefore oppose the amendment and would request the hon. Member to withdraw it."

MR. CHAIRMAN:—" May I know whether the hon. Member Sri V. Gurunandan Row wants to move the second amendment also."

* SRI V. GURUNANDAN ROW:—" Sir, the second amendment though it relates to the same Clause is a consequential amendment to the first one. I would like both to be put together. I have not yet moved the second one. I may be permitted to move and speak on it also."

MR. CHAIRMAN:—" If the second amendment is a consequential one it cannot be moved. I will deal with the first amendment only now. The question is—

' In sub-clause (1), *delete* the words and figures beginning with " Every licensee " and ending with " commencement of this Act " and *substitute* the following:—

" Every licensee shall within three months of the receipt of an order under section 4, sub-section (1) intimating the vesting date or in the case of an undertaking taken over and where the licensee has not appointed an individual as his sole and accredited representative before the commencement of this Act, within three months of the commencement of this Act." "

The amendment was lost.

Clause 7 was put and carried.

Clauses 8 to 14 were put and carried.

Clause 15.

MR. CHAIRMAN:—" The motion is—

' That Clause 15 do stand part of the Bill.' "

* SRI V. GURUNANDAN ROW:—" Mr. Chairman, Sir, I beg to move the following amendment:—

' Delete the existing sub-clause (2) and substitute the following as sub-clause (2):—

" Persons whose services are retained or in the case of undertakings taken over have been retained, shall be

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governed or deemed to have been governed by such rules as the Government may make or may have made from time to time in regard to them."

In sub-clause (2) add the following proviso:—

" Provided that any such person's total emoluments shall in no way be reduced below the emoluments such person was receiving while on the staff of the licensee." " "

SRI G. KRISHNAMURTHI :—" Mr. Chairman, Sir, I beg to second the amendment."

MR. CHAIRMAN :—" Amendment moved—

' Delete the existing sub-clause (2) and substitute the following as sub-clause (2) :—

" Persons whose services are retained or in the case of undertakings taken over have been retained, shall be governed or deemed to have been governed by such rules as the Government may make or may have made from time to time in regard to them."

In sub-clause (2) add the following proviso :—

" Provided that any such person's total emoluments shall in no way be reduced below the emoluments such person was receiving while on the staff of the licensee." " "

* SRI V. GURUNANDAN ROW :—" Mr. Chairman, Sir, this amendment has been brought forward with the same object as the amendments to Clause 7, namely, that in respect of undertakings taken over everything is deemed to have been done under this Act. This particular sub-clause (2), as it stands in the Bill, reads—

' Persons whose services are retained shall be governed by such rules as the Government may, from time to time, make in regard to them.'

This does not speak of what happens to those persons whose services have been retained in respect of those undertakings which have been taken over. Under the rules all these people should have been construed as Government servants even from the date of the taking over. So, both as far as the service rules are concerned and as far as their service is concerned, they should be treated as Government servants from the date of taking over and not as if they are being governed by some other set of rules. This is the purpose with which I have brought forward my amendment, namely, that they shall be governed or deemed to have been governed by such rules as the Government may make or may have made from time to time in regard to them. I do not see how any objection could be taken on principle to this amendment.

" My second amendment is a proviso to this sub-clause (2) that any such person's total emoluments shall in no way be reduced

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below the emoluments such person was receiving while on the staff of the licensee. It is only fair that it should be so and this proviso is only a guarantee that such persons will not be brow-beaten into accepting something which is less than what they were getting while on the staff of the licensee. These are the reasons why I have proposed this amendment."

* SRI G. KRISHNAMURTHI :—" Mr. Chairman, Sir, I heartily support the amendment. Yesterday, the Hon. the Minister who is piloting the Bill was kind enough to explain the intended policy of the Government with regard to the employees who are on the staff of the undertakings that are to be taken over. It was also explained by the Hon. Minister that the compensation paid or payable to these electricity undertakings was perhaps far beyond the expectations of those who were running these undertakings. When such is the case and when it has been explained by the Hon. the Minister in charge himself that the policy of the Government is so liberal in regard to the persons running these undertakings, why should the poor employees alone be hit by the provisions contemplated in this Clause? There are electricity undertakings where, as I submitted yesterday, the employees are already being paid over and above the rates applicable to State Government servants. There are also electricity undertakings where a bonus of two or three months' salary is paid and there are also other undertakings where some sort of a gratuity is paid. In all these cases, would it not be better on the part of the Government to just at least declare that, in the case of those who are already in the employ of the licensees, they will not be adversely affected by the Government themselves taking over these undertakings? It will be good and proper to put these posts on a par with those in the State Electricity Department after the present incumbents are discharged in the normal course when they reach the age of retirement. It is not proper on the part of the Government to say to these employees who have entered into a contract with the licensees and who have received some affirmation from the undertakings that they would be retained in service so long as their services are proper and not prejudicial to the interests of the institution; 'Well, we have taken over your undertakings and our rules will apply to you irrespective of any agreement or contract which you may have entered into with the licensees. We have got the power to legislate even with retrospective effect. This catastrophe has overtaken you and you should somehow reconcile yourselves to the new situation.' When it is the policy of this Government to be liberal in regard to the compensation payable to those who are running these undertakings, I would plead with the Government on behalf of these poor employees to see that the present employees are not at all affected by the rules that may be contemplated by the Government for them."

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SRI V. CHAKKARAI CHETTY :—“ Mr. Chairman, Sir, I heartily support this amendment. My point of view is this. Even as it is, some of the employees in the various electrical and other undertakings are not receiving adequate remuneration. We have had a good deal of agitation for increasing their wages. If this is the fact, how is it legitimate on the part of the Government to say that they have a right to cut down the wages, not because the wages are exorbitant but because one is an employee of the old management and the Government have the right to change the order of things and to reduce his wages when we have been contending that even the present wages some of the employees are receiving under the licensees are inadequate to meet the demands of present day living conditions? I therefore heartily support the amendment, and I hope the Government will pay some respect to the contracts already entered into. The Government cannot disown their responsibility for contracts entered into by the licensees. As a matter of fact, I do not know whether the law will permit the Government to disown responsibility for contracts entered into in the past. On these grounds it seems necessary that the Government should treat these employees on liberal terms because this clause is putting them in a position of disadvantage.”

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—“ Mr. Chairman, Sir, as I mentioned yesterday in my reply, it is the intention of the Government to retain all the employees in these undertakings as far as possible and as far as it is practicable. I oppose this amendment because the intention is that once these personnel are absorbed in Government service they will have to be governed by the rules made for regulating the service conditions of other Government servants. This was so even according to the provisions of the impugned Act.

“ As regards the second part of the amendment, it may be said that one of the principles which the Government will have under their consideration in absorbing into Government service the staff of the acquired undertakings is that as far as possible there should be no decrease in the total emoluments earned by them under the licensee. However, there have been cases where the licensees have unduly stepped up the salaries of the employees from Rs. 30 or Rs. 40 per month to Rs. 100 or more per month. There have been cases like that where the pay of some of the employees has been raised unduly high by the licensees either because the employees concerned are their relations or because the Government are going to take over the undertakings. It is the intention of the Government to have power to deal with such situations. A manager is paid Rs. 500, irrespective of his qualifications, because he happens to be the cousin or the nephew of the licensee. Do hon. Members expect the Government to take over those undertakings on the same conditions? ”

SRI V. CHAKKARAI CHETTY :—“ I am not talking about the manager. I am talking of the ordinary working staff.”

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* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—“ How can we make a distinction between the ordinary staff and the manager? This clause does not make any distinction between the worker, the manager and anyone else. The Government will try to deal with the situation as fairly as possible and as equitably as possible. I cannot understand why the hon. Member should have doubts in this matter. I have already stated that the Government will not try to make profit out of these things as a private individual would do. If hon. Members concede that, there can be no apprehension that the Government will be unreasonable.”

DR. V. K. JOHN :—“ Have the Government no cousins? ”
(Laughter.)

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—“ The hon. Member must himself answer that. I do not know whether the Government have got cousins.”

THE HON. SRI C. SUBRAMANIAM (pointing to Dr. V. K. John) :—“ You happen to be our cousin! ” (Laughter.)

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—“ I, therefore, oppose the amendment. I can, however, give the assurance that the Government would try to deal with the employees as fairly as possible.”

* SRI V. GURUNANDAN ROW :—“ Mr. Chairman, Sir, the Hon. Minister has now stated that there are cases where the salaries have been stepped up just before the undertakings were taken over. Even if Government have got any doubt that there has been some stepping up which is not justified, there is provision in the Bill that such employees need not be taken over. The Government can retain such of the employees as they desire to have. It is only such of the employees as are retained that should be given the emoluments they were receiving while on the staff of the licensee. The Government have got the power to terminate the services of any person after giving him three months' notice in writing or paying him three months' pay in lieu of such notice. If the Government have got the least doubt that the salary of any particular employee has been stepped up, such an employee need not be retained at all. So it is not an argument for saying that for such of those employees whom the Government are taking over, they should not give a guarantee that their emoluments will not be lessened.”

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—“ Sir, here is an instance. We gave four months' notice for acquisition, and a few days before taking over the undertaking, one licensee stepped up the salary of an engineer. In the case of the lower grade staff, in many cases we have given more and in no case less. After all, the licensee thinks 'The Government are

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taking over the concern. I am getting some compensation. Let the concern go to dogs. After me the deluge! That seems to be the attitude of some licensees."

MR. CHAIRMAN :—" Is the hon. Member Sri Gurunandan Row pressing his amendment? "

* SRI V. GURUNANDAN ROW :—" Yes, Sir, I am pressing."

MR. CHAIRMAN :—" The question is—

' Delete the existing sub-clause (2) and substitute the following as sub-clause (2) :—

" Persons whose services are retained or in the case of undertakings taken over have been retained, shall be governed or deemed to have been governed by such rules as the Government may make or may have made from time to time in regard to them."

In sub-clause (2), add the following proviso :—

" Provided that any such person's total emoluments shall in no way be reduced below the emoluments such person was receiving while on the staff of the licensee." "

The amendment was lost.

Clause 15 was put and carried.

Clauses 16 to 22 were put and carried.

Clause 23.

MR. CHAIRMAN :—" The motion is—

' That clause 23 do stand part of the Bill.' "

* SRI V. GURUNANDAN ROW :—" Mr. Chairman, Sir, there has been a slight mistake in typing the amendment. I may be permitted to rectify it. I beg to move—

' Delete the first paragraph of the clause and substitute the following :—

" If any difficulty arises in giving effect to the provisions of this Act, the Government may as occasion requires pass any order not inconsistent with the provisions of the Act or the rules made thereunder, which is necessary for the purposes of removing the difficulty."

Sir, really I ought to have opposed the clause altogether but since there has been no discussion clause by clause, I am compelled to move this amendment to restrict the wide scope of the clause as it stands. I shall now read to hon. Members the clause as it stands: ' If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, do any-

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thing which appears to them necessary for the purpose of removing the difficulty.' I cannot understand what the words 'do anything' denote. Suppose I create difficulties, can the Government remove me? What is meant by 'do anything'? The Government have to act in some way. Why should not they make it clear? Again and again the Supreme Court has held that the giving of arbitrary power amounts to abdication of legislative functions and that if any provision of law gives any power to do things which are unconstitutional, then the provision itself shall be void. Therefore, in order to make this clause more specific, I have moved my amendment. If the intention of the Government is only to carry out the provisions of the Act, I do not see any reason why the Government should oppose the amendment. Only if they want to act arbitrarily outside the scope of the Bill, such a clause is necessary. I do not see why this amendment should not be accepted. The Government should not do anything inconsistent with the provisions of the Act or the rules made thereunder. I have therefore brought in this amendment to see that an order under this clause is not subsequently challenged."

The amendment was duly seconded.

MR. CHAIRMAN :—" Amendment moved—

'Delete the first paragraph of the clause and substitute the following :—

"If any difficulty arises in giving effect to the provisions of this Act, the Government may as occasion requires pass any order not inconsistent with the provisions of the Act or the rules made thereunder, which is necessary for the purposes of removing the difficulty." "

* DR. V. K. JOHN :—" I am bound to say, Sir, that this clause is a stupid clause, stupid in the extreme. What the draftsman should have done is to give power to the Government to make rules to carry out the purposes of this Bill. That is the proper thing to do, and that is what has been done in all the previous Bills passed by the Legislature until the Congress took over. Now instead of giving such a power to Government to make rules to carry out the purposes of this Bill whenever they wish to do so, a clause has been introduced giving power to remove all difficulties in the way. It is meaningless. It is the brain wave of somebody. What is the idea of giving the Government power to remove all difficulties? What are the difficulties which the Government expect? Should they not anticipate these difficulties and then legislate? The object of this clause is to do something behind the Legislature. The Government have not applied their mind to the difficulties. They do not know what they are at present. They cannot imagine what they would be in the future. No civilized Government would come forward with such a Bill asking for power to remove all difficulties. They can ask for power to

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make rules to carry out the purposes of the Bill, and that would be proper. I say that this clause 23 should not find a place in this Bill."

SRI A. GAJAPATHY NAYAGAR :—"மன்றத் தலைவர் அவர்களே, இந்த மசோதாவில் anything என்று எழுதியிருந்தாலும், அது anything ஆகாது. Anything என்றால் anything just and necessary என்பது தான் அர்த்தமாகும். அதைப்பற்றி இவ்வளவு வாதம் செய்வது பொருத்த மில்லை என்று தான் தோன்றுகிறது. இத்துடன் நான் அடர்கின்றேன்."

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* **SRI G. KRISHNAMURTHI :—**"Sir, I beg to support this amendment. The amendment is quite reasonable and simple, and it can be accepted by the Government. The hon. Member Sri V. Gurunandan Row's amendment wants the intentions of the Government to be incorporated in the Bill. Of course, the Government intend to do anything only if it is consistent with the provisions of the Act or the rules to be framed thereunder. When that is the case I think the Government can accept the amendment moved by Sri V. Gurunandan Row. The fear in the minds of the public and some of the Members of this House is that the Government do often stick to the exact word and letter of the Act—even the comma in the Act. When that is the case, there is no harm in repeating things. Generally in law we are more prone to repeat things in order to avoid any confusion. Of course, the people who want to interpret the Act—people who adorn the Gadi of the Government at so many reasonable intervals—may interpret it in so many ways. In order to safeguard the future also, we want the thing to be put as plainly as possible, namely, 'to do anything not inconsistent with the provisions of the Act or the rules to be made thereunder'. I hope the Government will accept the amendment."

* **THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—**"Sir, I oppose the amendment. As the hon. Member, Sri Gajapathy Nayagar, pointed out already, legal opinion has already been taken. Under the clause, even as it stands, it will not be competent for the Government to do anything beyond the scope of the provisions of the Bill and the rules to be made thereunder. So, I oppose the amendment."

"Further, Sir, the clause itself provides for a copy of every order passed under this clause to be laid before each House of the State Legislature. So, Dr. John's fears that we are trying to act behind the Legislature has no force at all. Dr. John has actually strengthened my hands. He said that in several of the Bills passed previously by the Legislature there were similar provisions. If he can show an instance in which the Government have abused the power given to them, then he is justified in condemning this Bill wholesale. In all cases in which the Government have taken power to do anything to remove difficulties, they have not abused that power. Dr. John has not been able to say that the Government have at any time abused their powers. Therefore, Sir, I strongly oppose the amendment."

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MR. CHAIRMAN :—" The question is—

' Delete the first paragraph of the clause and substitute the following :—

" If any difficulty arises in giving effect to the provisions of this Act, the Government may as occasion requires pass any order not inconsistent with the provisions of the Act or the rules made thereunder, which is necessary for the purposes of removing the difficulty.' "

The amendment was lost.

Clause 23 was put and carried.

Clauses 24 and 25 were put and carried.

Schedules I and II were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—" Sir, I beg to move—

' That the Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be passed into law.' "

MR. CHAIRMAN :—" Motion moved—

' That the Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be passed into law.' "

* DR. V. K. JOHN :—" Sir, I still suggest that it would be advisable for the Government to refer this matter for the opinion of the Attorney-General of India to find out whether it is within the competence of this Legislature to pass this measure, and not to wait until the Courts of Law decide that it is not within the competence of the Legislature. This is a case wherein the Government will be involved in large sums of money, and, therefore, the Government should take particular care to see that they pass a Bill which is not *ultra vires* of this Legislature but *intra vires* of this Legislature. There is a very grave doubt whether this legislation is *intra vires* of this Legislature. I suggest that the opinion of the Attorney-General of India may be taken, even though it can be taken only after this Bill is passed into law. If the opinion of the Attorney-General is that this Bill is *ultra vires* of this Legislature, I suggest that the Central Government may be requested to introduce a Bill in Parliament, which they can do under Article 248."

SRI K. BHASHYAM :—" Sir, after all that has been said on the floor of the House, and after considering the opinion of Mr. Justice Satyanarayana Rao of the Madras High Court that, under the Act as it stands, it is certainly competent for the local legislature to acquire electricity undertakings, the hon. Member, Dr. John, is not quite satisfied. He wants that the Government

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should consult the Attorney-General. The Attorney-General may not charge the Government very much. After all, he is doing this work for the Government. There is no question about that."

* DR. V. K. JOHN :—" Sir, I may say that in the Supreme Court judgment they have stated ' this is sufficient to dispose of the appeal ' and that it is not necessary to express any opinion on the other points raised in the Court below. There they have not expressed any opinion or made any observations on the points raised by the High Court. They have said that this piece of legislation is *ultra vires* of the Legislature."

SRI K. BHASHYAM :—" I think, Sir, Dr. John has correctly misunderstood me or has not heard me properly. I never said that the Supreme Court has endorsed the opinion of Mr. Justice Satyanarayana Rao of the Madras High Court. Mr. Justice Satyanarayana Rao in the course of an argument about the Bill before him did deal with the question as to the competence of the local legislature to deal with the acquisition of electricity undertakings under the Act as it stood to-day. Therefore it is I quoted his opinion before the House for the purpose of strengthening my argument that the local legislature is certainly competent to deal with this matter. Apart from this, Sir, even supposing that we take the opinion of the Attorney-General, how far is his opinion binding on the courts? Is not the Attorney-General also a human being liable to commit mistakes? If all our legal officers are liable to err, certainly the Attorney-General is not going to be any better than we are, as far as I know, at any rate. Even if the Attorney-General is a great person and a wiser person, it does not mean that what he says is law. After all, the matter has to go before a Court of Law. He cannot decide the issue. Only the courts can decide the issue. I would rather ask the Government to go ahead with the Bill even at the risk of some litigious person taking the matter in appeal to the Supreme Court for the purpose of saying that this Act is bad. We are committed to the nationalization of electricity undertakings, which is good for the country. Therefore, even if there is anything wrong with this Bill, the Government can go ahead and take the risk. I do not think the risk is so great as Dr. John thinks it to be. From a reading of the legal opinion and also from a reading of the clauses of the Bill, I think, Sir, that we need not be afraid that the courts will be against us and that the Supreme Court will be against us."

* SRI T. PURUSHOTHAM :—" Sir, I support the motion moved by the Hon. Minister. I take this opportunity of congratulating the Raja of Ramnad, who is in charge of this Bill, on the able and forcible manner in which he has piloted this Bill in this House and in the other House."

3-30 P.M. * THE HON. RAJA SRI SHANMUGA REJESWARA SETHUPATHI :—" Mr. Chairman, Sir, I thank hon. Members of this House for the very constructive and helpful criticisms they have made on the Bill. I will certainly remember all the requests they

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have made in this connexion and I shall try to implement them to the best of my ability and in the interests of all the people concerned. With the good wishes of hon. Members, I hope the Bill will be passed."

MR. CHAIRMAN :—" The question is—

' That the Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be passed into law.' "

The motion was carried and the Bill was passed into law.

(2) THE COURTALLAM TOWNSHIP BILL, 1954 (L.C. BILL NO. 8 OF 1954)
(AS PASSED BY THE ASSEMBLY).

* THE HON. SRI S. S. RAMASWAMI PADAYATCHI :—

" Mr. Chairman, Sir, I beg to move—

' That under rule 102 of the Madras Council Rules, the following amendment which was made by the Legislative Assembly to the Courtallam Township Bill, 1954 (L.C. Bill No. 8 of 1954), as passed by the Council be taken into consideration.' "

MR. CHAIRMAN :—" The question is—

' That under rule 102 of the Madras Council Rules, the following amendment which was made by the Legislative Assembly to the Courtallam Township Bill, 1954 (L.C. Bill No. 8 of 1954), as passed by the Council be taken into consideration.' "

The motion was carried and the amendment was taken into consideration.

* THE HON. SRI S. S. RAMASWAMI PADAYATCHI :—

" Mr. Chairman, Sir, I beg to move the amendment, namely :—

' Renumber clause 6 as sub-clause (1) and add the following as sub-clause (2) :—

" (2) All orders made by the State Government under sub-section (1) shall, as soon as possible after they are made, be laid on the table of both Houses of the Legislature.' "

MR. CHAIRMAN :—" Motion moved—

' Renumber clause 6 as sub-clause (1) and add the following as sub-clause (2) :—

" (2) All orders made by the State Government under sub-section (1) shall, as soon as possible after they are made, be laid on the table of both Houses of the Legislature.' "

SRI T. PURUSHOTHAM :—" Mr. Chairman, Sir, this Bill was already considered by this House and passed. It is only a short amendment that has been moved by the Hon. Minister, and I am sure hon. Members will have no objection to accept the amendment. On the other hand we should welcome it because the rules to be framed under that Act are to be placed on the table of both Houses of the Legislature.